

REMARKS

Claims 1-12 were previously pending in the application. Claims 5, 7, 9 and 12 were found allowable over the prior art. Claims 1-4, 6, 8, 10 and 11 were rejected over the prior art.

Claims 1-4, 6, 8 and 11 are rejected as obvious from Estwanik (US 6,103,044) and U.S. Patent No. 5,358,471 to Klotz. Applicant's invention provides a structure for transmitting force to a user's fist and arm to effect resistance training of the muscles. This is emphasized in amended Claim 1 where a means of attaching a resistance device to transmit resistance force is now recited. This structure and function is contrary and antithetical to the teaching and purposes of the cited prior art.

Estwanik does not disclose a resistance device, nor means of attaching such, nor suggests that resistance force be applied by the Estwanik device. Estwanik's stabilization straps (18, 26) do not include any means of attaching a resistance device, and are buried within a glove during use so as to be inaccessible for such (Figure 4). Also, the Estwanik stabilization straps include means of attaching their ends to an underlying wrist portion (16) and such attachment makes impossible attachment and transfer of resistance force through the straps (col. 3, line 30-40).

As well, there is no motivation to add a resistance force attachment to the Estwanik device because such is contrary to its intended use: the Estwanik device is designed for stabilizing a user's hand and wrist within a boxing glove *while in normal use* (col. 1, line 14-15, 50+). The normal boxing activities discussed in Estwanik (distinct from muscle training activities) are not possible if a resistance device were to be attached to the Estwanik device.

Further, Estwanik does not disclose the clench strap recited in Applicant's claim 1, which has been amended to clarify that the clench strap extends fully from one side of the grip to the other. The stabilization member (48) cited in Estwanik does not extend beyond the fingers (Figs. 3, 6).

The cited Estwanik and Klotz references combined do not disclose all of the limitations of Applicant's invention as claimed. Further, a *prima facie* showing of obviousness must regard the invention *as a whole* and provide a motivation to combine the references with some *expectation of success*. MPEP 706.02(j) The devices of Estwanik and Klotz have distinct purposes and their elements operate to transfer forces to the user in different ways and to achieve different results. These purposes, ways and results are also entirely different from those of Applicant's invention. In rejecting Applicant's claims, the prior art structures have been combined piecemeal without regard for their

intended function and operation. Neither the prior art nor Applicant's invention have been considered as a whole. As a consequence, there can be no expectation of success for *any* particular purpose or function. No basis for obviousness has been established and rejection is improper.

The Examiner's note regarding the extent of Applicant's recited medial and lateral straps in Claim 11 is appreciated. Claim 11 is amended to clarify this relationship. At the same time, the recited straps are amended to clarify that they extend sufficient to reach the full length of the user's arm.

Applicant's Claim 10 was rejected as obvious from Givler et al. (U.S. No 6,945,945) in view of Estwanik. Givler is cited as disclosing a conformable grip and a clench strap (hand piece). However, Givler does not disclose a conformable grip. The referenced figure of Givler (Fig. 3) shows only a hand piece (28), a hand piece connection (30) and elastic arm pieces (20,20') contacting the hand, none of which, alone or combined, constitute a conformable grip as claimed by Applicant. The hand piece (28) is cited in Examiner's remarks as comprehending Applicant's clench strap. The hand piece connection is not detailed by Givler and the referenced figure shows only an elongated element of minimal size crossing located over the back of the hand. Whether this element is rigid or flexible or even contacts the hand is conjecture as the Givler disclosure provides no details of it. Therefore cited it as conformable is without support. Nothing in Givler comprehends a conformable grip to any reasonable interpretation or as specified by Applicant.

As discussed above, in rejecting claim 10, the prior art structures have been combined piecemeal without regard for their intended function and operation. Neither the prior art nor Applicant's invention have been considered as a whole. The hand piece of Givler and the metacarpophalangeal joint stabilization member of Estwanik may be similarly placed in the respect to the user's body. But that alone does not indicate like function nor any *expectation of success* in substituting characteristics of one for the other. This is true in respect to any of the elements of these two quite differently functioning devices - unless the disclosure were to provide some indication of *desirability* - which cannot in fact be found.

Applicant contends that due to the distinct function and operation of the devices as a whole and their separate elements, that without some objective indication of specific desirability, the teachings of Givler and Estwanik cannot be combined for any purpose. A showing of obviousness

requires both desirability of the combination and an expectation of success. MPEP 2141 Because these are lacking here, rejection of Claim 10 is improper.

Claim 10 is amended to substitute more accepted “means plus function” language. No change in scope is intended.

For the above reasons, Applicant believes the pending claims as listed above are in condition for allowance and reconsideration and allowance is requested.



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